

Appl. No. 09/807,457
Amdt. dated November 29, 2005
Reply to Office Action of September 26, 2005

REMARKS/ARGUMENT

This amendment responds to the Office Action of September 26, 2005.

Claims 1-13, 16-18, 22, 25, 27-30, 33-38, and 40-53 are pending in the application with claims 14, 15, 19-21, 23, 24, 26, 31, 32, and 39 are canceled, and claims 1 and 48-53 are currently amended.

The specification has been amended at the point indicated to correct an obvious typographical error.

Support for the amendments to claims 1 and 48-53 can be found in the specification on page 4, lines 21-25, and the paragraph bridging pages 6 and 7.

The specification has been objected to under 37 C.F.R. 1.75(d)(1), as failing to provide proper antecedent basis for the claimed subject matter. According to the Examiner, "Adequate antecedence has not been provided for the various amendments to claims 1, and 51-53 pertaining to the starting components and respective OH and NCO groups."

The Applicant refers the Examiner to previous amendments of claims 1 and 51-53 submitted on May 19, 2005. Support for the language in claims 1 and 51-53 regarding NCO groups and OH groups can be found in the specification on page 2, lines 21-30, and in the examples of suitable hydroxyl-functional (meth)acrylates listed on page 3, lines 1-5. Although the precise wording found in the claims is not found in the specification, such is not required. Clearly, the cited language of the specification provides ample support for the claim language objected to.

Appl. No. 09/807,457
Amdt. dated November 29, 2005
Reply to Office Action of September 26, 2005

Accordingly, it is requested that the objection to the specification under 37 C.F.R. 1.75(d)(1) be withdrawn.

Claim 53 has been rejected under 35 U.S.C. 112, second paragraph, as being indefinite. According to the Examiner, "there is a word missing within line 8, after 'OH groups and.'"

Claim 53 has been amended to insert the word "the" in line 8 after the words "OH groups and." Claim 52 has also been similarly amended. Accordingly, it is requested that the rejection of claim 53 under 35 U.S.C. 112, second paragraph, be withdrawn.

Claims 1-13, 16-18, 22, 25, 27-30, 33-38, and 40-53 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. According to the Examiner:

With respect to claims 1-13, 16-18, 22, 25, 27-30, 33-38, and 40-51, applicant has failed to provide support for the amendments regarding the language, "other than comminuting to a powder," as these amendments pertain to when the "comminuting to a powder" is excluded. The examiner has reviewed the specification, and support for the argued comminuting operation appears only at page 4, lines 20-23 and page 5, line 2. However, the specification only states that comminuting to a powder is excluded after the polyaddition reaction and that powder-form preforms are excluded. Neither of these disclosures support excluding comminuting to a powder prior to or during polyaddition. With

Appl. No. 09/807,457

Amdt. dated November 29, 2005

Reply to Office Action of September 26, 2005

respect to claims 28 and 36, it is unclear if the “comminuting” language pertains only to the preform and not to pre-preform components.

Claims 1 and 51 have been amended by changing:

“wherein the mixture before or during the polyaddition reaction is subjected to a shaping step other than comminuting to a powder”

to read:

“wherein the mixture before or during the polyaddition reaction is subjected to a shaping step; and wherein said preform is produced in a non-powder form and is not comminuted to a powder.”

Claims 52 and 53 have been amended by changing:

“and wherein the mixture before or during the polyaddition reaction is subjected to a foaming step;”

to read:

“and wherein the mixture before or during the polyaddition reaction is subjected to a shaping step; and wherein said preform is produced in a non-powder, foamed form and is not comminuted to a powder;”

These amendments make it clear that the “comminuting” language relates to the preform after the polyaddition step, as set forth in the specification on page 4, lines 21-25. These amendments also make it clear that the “comminuting” language of claims 28 and 36 pertains only to the preform.

Appl. No. 09/807,457
Amdt. dated November 29, 2005
Reply to Office Action of September 26, 2005

Accordingly, it is requested that the rejection of claims 1-13, 16-18, 22, 25, 27-30, 33-38, and 40-53 under 35 U.S.C. 112, first paragraph, be withdrawn.

Finally, claims 52 and 53 have also been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. According to the Examiner, claims 52 and 53 “failed to provide adequate enablement for the limitation, ‘wherein the mixture before or during the polyaddition reaction is subject to a foaming step.’”

As discussed above, Claims 52 and 53 have been amended by changing “foaming step” to “shaping step,” and by adding the following: “and wherein said preform is produced in a non-powder, foamed form and is not comminuted to a powder.”

These amendments incorporate the “shaping step” of claim 1 and are further supported by the discussion of “foamed plastics” found on page 7, lines 1-4, of the specification.

Accordingly, it is requested that the rejection of claims 52 and 53 under 35 U.S.C. 112, first paragraph, be withdrawn.

Appl. No. 09/807,457

Amdt. dated November 29, 2005

Reply to Office Action of September 26, 2005

In view of the foregoing, it is submitted that this application is now in condition for allowance and an early Office Action to that end is earnestly solicited.

Respectfully submitted,



Paul Grandinetti

Registration No. 30,754

OSTROLENK, FABER, GERB & SOFFEN, LLP

1180 Avenue of the Americas

New York, New York 10036-8403

Telephone (212) 382-0700